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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/300,302	04/27/1999	GERARDO HIDALGO LLINAS	B-3645.61707	4291

7590 02/05/2003  
JOHN PALMER  
C/O LADAS & PARRY  
5670 WILSHIRE BOULEVARD  
SUITE 2100  
LOS ANGELES, CA 90036

EXAMINER

PASTERCZYK, JAMES W

ART UNIT PAPER NUMBER

1755

DATE MAILED: 02/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/300,302

Applicant(s)  
Hidalgo Llinas et al.

Examiner  
J. Pasterczyk

Art Unit  
1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 8/12/02 and 12/2/02
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) 9 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 11, and 13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-20 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. This Office action is in response to the CPA letters filed 8/12/02 and 12/2/02 and refers to the rejection mailed 8/10/01. To date no amendments have been entered to the claims as they existed as of the date of the rejection referred to above.

2. Claims 1-8, 10-11 and 13-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 6, in the line reciting the sum of "x + y + z is equal to a valence of M", change "a" to --the--.

In claim 2 (amended), l. 3, insert a space before "cycloalkylene" and change the semicolon at the end of the claim to a period.

In claims 8 and 11, third line of each, insert --an-- before "alkylaluminoxane", and correct the spelling to --trialkylaluminum--.

In claims 18-20, Cp\* is not defined, and in the text of each of these claims, C<sub>p</sub> should be Cp.

In claims 15-17, "cyclopentadienyl" is sometimes misspelled as "ciclopentadienil", for example in claim 15, p. 2, l. 9 from the end, p. 3, l. 9 from the top, in claim 16, p. 34, second line from the end, and likely elsewhere. In claim 15, third page, l. 5 from the top, there should be a hyphen between 2 and methylbenzoindenyl. This error also likely occurs elsewhere in claims 15-17.

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In claims 1-8, 10-11 and 13-20, the recitation of the component being heterogeneous is incorrect since it would require a comparison to something else, e.g. the composition in the presence of a solvent, or the composition as being used in an olefin polymerization process. A composition itself is not homogeneous or heterogeneous. Also, in claims 6-8, 14, 16, 17, 19 and 20, if the composition were to be heterogeneous in a typical solvent used for polymerizing olefins, it would have to be supported on a support, which is not recited as being a necessary reagent. ✓

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-4, 6, 7, 10, 11, 13-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vega as cited in and for the reasons of record given in paragraph 4 of the previous Office action.

5. Claims 1-8, 10, 11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidalgo Llinas as cited in and for the reasons of record given in paragraph 5 of the previous Office action.

6. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canich as cited in and for the reasons of record given in paragraph 6 of the previous Office action.

7. Applicant's arguments filed 5/23/01 have been fully considered but they are not persuasive.

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Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is (703) 308-3497. The examiner can normally be reached on M-F from 9 to 5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703) 308-3823. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for normal faxes, 872-9311 for after final faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



J. Pasterczyk

1/31/03

  
**Mark L. Bell**  
**Supervisory Patent Examiner**  
**Technology Center 1700**